

Practitioner's Docket No. PHO-104

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **FAX RECEIVED**

In re application of: Wachter et al.

Application No.: 09/096,832

Filed: June 12, 1998

Group No.: 3738

Examiner: Thomas C. Barrett

SEP 29 2006

**OFFICE OF PETITIONS**For: Improved Methods And Apparatus For Multi-Photon  
Photo-Activation Of Therapeutic AgentsDate of mailing "Notice of Allowance and  
Fee(s) Due": July 15, 2004  
Issue Fee paid: September 28, 2004

Confirm no. 2268

**Commissioner for Patents**  
P. O. Box 1450  
Alexandria, VA 22313**PETITION FOR WITHDRAWAL FROM ISSUE (37 C.F.R. 1.313)****PETITION**

1. Applicant hereby petitions for the withdrawal of this application from issue.

**PATENT ISSUE FEE**

2. The issue fee for this case has been paid on September 28, 2004

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**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))**

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

deposited with the United States Postal Service  
with sufficient postage as first class mail in an  
envelope addressed to the Assistant  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450.

**FACSIMILE**

transmitted by facsimile to the Patent and  
Trademark Office.

Signature

*Cristine M. Noll*Cristine M. Noll  
(type or print name of person certifying)

Date: September 29, 2006

10/02/2006 CKHLOK 00090007 501039 09096832

01 FC:1464 130.00 DA

(Petition for Withdrawal from Issue (37 C.F.R. 1.313)) page 1 of 2

**REASON(S) FOR WITHDRAWAL REQUEST****3. The reason for the request for withdrawal from issue is:**

(a) To consider the attached RCE to consider previously filed IDSs. Since paying the issue fee two years ago, Applicants have been waiting for this application to issue as a patent. During this delay, references were cited in related divisional application 09/571,099. Applicants filed these references in IDSs received by the Patent Office on March 3, 2005, June 17, 2005, and January 3, 2006. The Examiner, however, would not consider these references. Accordingly, Applicants are forced to file this petition and RCE.

(b) It is respectfully submitted that this petition is not based on Applicants' actions but necessary in light of the delay by the Patent Office. Therefore, it is submitted that no fee should be due for this petition or RCE. If a fee should be due, please see the below authorization to charge our deposit account.

**PETITION FEES****4. The petition fee (37 C.F.R. 1.17(i)) is paid as follows:**

The undersigned hereby authorizes the Patent Office to charge to our deposit account 50/1039 for the petition sum of \$130.00 and any additional fee due.

If any further fee is due, please charge our deposit account 50/1039.

  
\_\_\_\_\_  
**SIGNATURE OF PRACTITIONER**

Reg. No. 34,225

Mark J. Murphy

Customer No.: 000026568

(Petition for Withdrawal from Issue (37 C.F.R. 1.313) (page 2 of 2)

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SEP 29 2006

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September 29, 2006

OF COUNSEL  
 FRED S. LOCKWOOD  
 EDWARD M. KEATING**VIA FACSIMILE**

Office of Petitions  
 Commissioner of Patents  
 U.S. Patent Office  
 Madison West Building  
 600 Delany  
 Alexandria, VA 22313-1450

Re: US Patent Application 09/096,832  
 Our file no. PHO-104

Dear Sir:

In order to withdraw the above application from issuance to consider an Information Disclosure Statement, we are enclosing herewith by facsimile:

- (1) Petition For Withdrawal From Issue; and
- (2) Request for Continued Examination (RCE)

Please withdraw this application from issuance for consideration of the Information Disclosure Statements received by the Patent Office on March 3, 2005, June 17, 2005 and January 3, 2006 as soon as possible, and prior to the issuance of this application.

Respectfully submitted,



Mark J. Murphy  
 Reg. No. 34,225  
 Customer no. 000026568

Enclosures

**Cook, Alex, McFarron, Manzo, Cummings & Mehler  
Ltd.** **FAX RECEIVED**

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**FACSIMILE COVER SHEET**

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<b>TO:</b>	<b>NUMBER OF PAGES (INCLUDING THIS TRANSMITTAL SHEET):</b>
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<b>FAX:</b> (571) 273-0025	<b>PHONE:</b> (571) 272-3208
<b>DATE:</b> September 29, 2006	
<b>FROM:</b> Mark J. Murphy	
<b>REFERENCE:</b> US Application No. 09/096,832; Our Ref: PHO-104	
<b>MESSAGE:</b> Please see attached correspondence	

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